

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY CARACAS

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E.O. 11652: N/A

TAGS: TGEN, VE

SUBJECT: PROPOSED AGREEMENT FOR SCIENTIFIC AND TECHNOLOGICAL
COOPERATION - ARTICLE ON INDUSTRIAL AND INTELLECTUAL
PROPERTY

REF: A) CARACAS 3259, B) CARACAS 2715, C) STATE 172521

1. BECAUSE PROPOSED AGREEMENT WAS NOT DESIGNED WITH
SPECIFIC ACTIVITIES IN MIND, BUT RATHER TO PROVIDE A CO-
OPERATIVE FRAMEWORK FOR SPECIFIC ACTIVITIES TO BE DEVELOPED
LATER, DEPARTMENT DOES NOT BELIEVE THAT A DETAILED
INDUSTRIAL AND INTELLECTUAL PROPERTY PROVISION SHOULD BE
INCLUDED IN THE TEXT OF THE GOVERNMENT-TO-GOVERNMENT AGREE-
MENT. FURTHERMORE, THE DIFFERING LEGISLATIVE REQUIREMENTS
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PAGE 02 STATE 131466

APPLICABLE T U.S. FEDERAL AGENCIES MAKES NEGOTIATION OF AN
INTELLECTUAL PROPERTY PROVISION COVERING ALL AGENCIES
DIFFICULT.

2. TO ASSIST EMBASSY IN FURTHER DISCUSSIONS WITH GOV, WE
PRESENT IN PARA 4 BELOW A PROPOSED REDRAFT OF ARTICLE
IX WHICH THE GOV TEAM CAN STUDY AND USE AS BASIS FOR

FURTHER NEGOTIATION.

3. PROPOSED REDRAFT PROVIDES THAT WHEN AGENCIES OF BOTH GOVERNMENTS AGREE TO COOPERATE (AS PROVIDED IN ARTICLE IV), ARRANGEMENTS RECORDING THEIR AGREEMENT WILL INCLUDE PROVISION FOR INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS, AND THAT THESE ARRANGEMENTS WILL TAKE INTO ACCOUNT THE LAWS OF BOTH COUNTRIES.

4. PROPOSED REVISION OF ARTICLE IX AS PROPOSED REF C.

- ARTICLE IX- DELETE ENTIRE TEXT OF THIS ARTICLE AND SUBSTITUTE THE FOLLOWING:

"THE PARTIES, OR IN APPROPRIATE CASES, COOPERATING ENTITIES WHICH ARE AGENCIES OF THE PARTIES, SHALL AGREE ON THE ALLOCATION AND USE OF INDUSTRIAL AND INTELLECTUAL PROPERTY ARISING OUT OF OR RELATED TO COOPERATIVE ACTIVITIES UNDER THIS AGREEMENT OR ANY IMPLEMENTING ARRANGEMENTS MADE PURSUANT TO THIS AGREEMENT. IN REACHING SUCH AGREEMENTS, THEY SHALL BE GUIDED BY THE PRINCIPLE OF EQUITABLE DISTRIBUTION OF RIGHTS AND SHALL TAKE INTO ACCOUNT THE LEGISLATION AND POLICIES ON INDUSTRIAL AND INTELLECTUAL PROPERTY OF THE TWO PARTIES." END TEXT.

5. ACTION REQUESTED: EMBASSY IS REQUESTED TO EXPLAIN DEPARTMENT VIEW THAT A DETAILED INDUSTRIAL AND INTELLECTUAL LIMITED OFFICIAL USE

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PAGE 03 STATE 131466

PROPERTY POLICY IS NOT NECESSARY AT THIS STAGE AND TO PROPOSE FORMULATION GIVEN IN PARA 4 ABOVE TO GOV. WE HOPE THAT EMBASSY WILL BE SUCCESSFUL IN PERSUADING GOV TO ACCEPT THE FORMULATION. HOWEVER IF GOV HAS SERIOUS PROBLEMS WE WOULD BE PLEASED TO MEET WITH GOV TEAM AS PROPOSED REF A, PERHAPS IN MID-JUNE. DEPARTMENT WOULD APPRECIATE EMBASSY REPORT ON GOV REACTION TO ABOVE TEXT. TO ASSIST OUR PREPARATIONS FOR A POSSIBLE MEETING WITH GOV DELEGATION, WE WOULD ALSO APPRECIATE EMBASSY'S UPDATING OF THE "CATALOG OF SPECIFIC PROGRAMS BETWEEN THE U.S. AND VENEZUELA IN THE FIELD OF TECHNICAL COOPERATION". CHRISTOPHER

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